



House of Representatives

General Assembly

File No. 356

January Session, 2015

Substitute House Bill No. 5871

House of Representatives, April 1, 2015

The Committee on Labor and Public Employees reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

**AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE
FOR CURRENT AND FORMER UNIFORMED MEMBERS OF PAID
MUNICIPAL OR VOLUNTEER FIRE DEPARTMENTS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-294j of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) For the purpose of adjudication of claims for payment of benefits
4 under the provisions of this chapter, a uniformed member of a paid
5 municipal or volunteer fire department, a regular member of a paid
6 municipal police department, a constable, as defined in section 31-294i,
7 or a member of a volunteer ambulance service shall be eligible for such
8 benefits for any disease arising out of and in the course of
9 employment, including, but not limited to, hepatitis, meningococcal
10 meningitis [,] or tuberculosis, [Kahler's Disease, non-Hodgkin's
11 lymphoma, and prostate or testicular cancer] that results in death or
12 temporary or permanent total or partial disability.

13 (b) (1) Notwithstanding any provisions of the general statutes, for
14 the purpose of adjudication of claims for payment of benefits under
15 the provisions of this chapter, a uniformed member of a paid
16 municipal or volunteer fire department shall be eligible for such
17 benefits for the following types of cancers arising out of and in the
18 course of employment: Kahler's Disease, non-Hodgkin's lymphoma, or
19 any condition of cancer affecting the brain, skin, skeletal system,
20 digestive system, endocrine system, respiratory system, lymphatic
21 system, reproductive system, urinary system or hematological system
22 that results in death or temporary or permanent total or partial
23 disability. Such cancer shall be presumed to have been suffered in the
24 line of duty as a result of the inhalation, absorption or ingestion of
25 noxious fumes or poisonous gases, unless the contrary be shown by a
26 preponderance of the evidence, provided (A) such uniformed member
27 successfully passed a physical examination upon entry into such
28 service, or subsequent to entry, as the case may be, that failed to reveal
29 any evidence of such cancer, (B) such uniformed member has worked
30 for not less than five years at a municipal or volunteer fire department
31 at the time such cancer is discovered, or should have been discovered,
32 and (C) such cancer is one that is known to result from exposure to
33 heat, radiation or a known or suspected carcinogen as determined by
34 the International Agency for Research on Cancer or the National
35 Toxicology Program of the United States Department of Health and
36 Human Services.

37 (2) Any individual who is no longer actively serving as a uniformed
38 member of a paid municipal or volunteer fire department but who
39 otherwise would be eligible for such benefits pursuant to the
40 provisions of subdivision (1) of this subsection, may apply for such
41 benefits not more than five years from the date such individual last
42 served with such paid municipal or volunteer fire department.

43 (3) Any uniformed member of a paid municipal or volunteer fire
44 department or individual applying for benefits pursuant to
45 subdivision (1) or (2) of this subsection may be required to submit to
46 annual physical examinations as a condition of receiving such benefits.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>October 1, 2015</i>	31-294j
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LAB *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 16 \$	FY 17 \$
Workers' Comp. Claims-Admin. Serv. Dept.	GF - Potential Cost	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	STATE MANDATE - Cost	See Below	See Below

Explanation

The bill may result in a cost to the state's workers' compensation program and to municipalities by creating a rebuttable presumption that certain types of cancer/conditions enumerated in the bill, which present in municipal and volunteer firefighters and retirees, are work related and therefore compensable under workers' compensation. In general, volunteer firefighters are treated as employees of the municipality in which they serve. However, under CGS 7-314a(f), a volunteer firefighter who performs fire duties under the direction of the State Fire Marshall is considered a state employee for the purposes of workers' compensation.¹ It is not known at this time the frequency with which municipal volunteer firefighters operate under the direction of the state. There will be a cost to the state plan to the extent that a volunteer firefighter, operating under the direction of the state, files a workers' compensation claim for cancer as specified in the bill.

¹ For municipalities operating solely with a volunteer fire department, the state is a secondary responder. The State Fire Marshall has approximately 20 firefighters to support and direct municipalities in the event they are called in to assist.

The cost will depend on (1) the frequency of claims filed and (2) the severity of the claim (e.g. the extent of medical treatment and lost wage benefits), which are highly variable. In addition, the bill does not specify all types of cancer compensable under the bill. Kähler's Disease and non-Hodgkin's lymphoma are the only two cancers explicitly identified. In 2014, there were 70,800 new cases (4.3% of all new cancers) of Kähler's Disease and 24,050 new cases of non-Hodgkin's lymphoma (1.4% of all new cancers) nationally.² Research estimates the average annual net cost of initial cancer treatment is approximately \$57,319. The average annual net cost of ongoing treatment is approximately \$11,697.³ Cost estimates vary by (1) type of cancer, (2) when the individual is diagnosed, (3) age and overall health, and (4) any other presenting symptoms. Of the state's approximately 26,650 firefighters, 22,225 are volunteer (or 83%).⁴

There will be a cost to municipalities determined by (1) the frequency of claims filed and (2) the severity of the claim (e.g. the extent of medical treatment and lost wage benefits), which are highly variable. The cost to fully insured municipalities will be reflected in premiums after October 1, 2015.⁵

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to (1) frequency of claims filed, (2) severity, and (3) changes in premiums (for fully insured municipalities).

² Source: National Institute of Health, National Cancer Institute: Surveillance, Epidemiology, and End Results Program. (www.cancer.gov)

³ Figures are in 2010 dollars. The annual initial treatment costs range from \$5,047 to \$138,300 and ongoing costs range from \$915 to \$11,697. The costs are net of any member cost sharing. (Source: Mariotto, A., Yabroff, K.R., Shao, Y., Feuer, E., and Brown, Martin (2011). *Projections of the Cost of Cancer Care in the United States: 2010 – 2020*; Oxford University Press.)

⁴Source: Connecticut State Fire Fighters' Association, members as of 2014.

⁵There are currently 32 towns and cities in Connecticut who are self-insured and therefore pay the cost of claims incurred.

OLR Bill Analysis**sHB 5871*****AN ACT CONCERNING WORKERS' COMPENSATION COVERAGE FOR CURRENT AND FORMER UNIFORMED MEMBERS OF PAID MUNICIPAL OR VOLUNTEER FIRE DEPARTMENTS.*****SUMMARY:**

This bill changes workers' compensation law to give paid municipal and volunteer firefighters a rebuttable presumption that numerous types of cancer, specified in the bill, are due to their work as firefighters and makes those with the disease eligible for workers' compensation benefits. The presumption can be denied if a preponderance of the evidence is contrary to employment causing the disease.

As with any workers' compensation claim, to qualify for payment, the disease must result in death or the temporary or permanent total or partial disability of the employee.

The bill also permits retired firefighters to apply for the benefits within five years of their retirement.

EFFECTIVE DATE: October 1, 2015

ELIGIBLE TYPES OF CANCER

The bill applies to the following types of cancer presumed to arise out of employment:

1. Kahler's Disease,
2. non-Hodgkin's lymphoma, and
3. conditions of cancer affecting the brain, skin, skeletal system, digestive system, endocrine system, respiratory system,

lymphatic system, reproductive system, urinary system or hematological system.

These cancers will be presumed to have been suffered in the line of duty as a result of the inhalation, absorption, or ingestion of noxious fumes or poisonous gases, unless the contrary is shown by a preponderance of the evidence. Preponderance means the evidence on one side of the question outweighs the evidence on the other side. It does not mean beyond a reasonable doubt, which is a higher standard.

QUALIFYING FOR THE PRESUMPTION

Firefighters qualify for the presumption if the following conditions are met:

1. he or she passed a physical examination upon entry into such service, or subsequent to entry, as the case may be, that failed to reveal any evidence of such disease,
2. the firefighter has worked for at least five years at a municipal or volunteer fire department at the time such disease is discovered, or should have been discovered, and
3. the disease is one that is known to result from exposure to heat, radiation, or a known or suspected carcinogen as determined by the International Agency for Research on Cancer or the National Toxicology Program of the U.S. Department of Health and Human Services.

ANNUAL PHYSICALS

The bill specifies that any current or retired firefighter who qualifies for benefits under the bill may be required to submit to annual physical examinations as a condition of receiving the benefits.

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 13 Nay 0 (03/12/2015)